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U.S. DISTRICT COURT
DISTRICT OF NEVADABY MS DEPUTY

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Counsel for BOYD GAMING CORPORATION

UNITED STATES
 DISTRICT COURT

CV-S-04-0156-RLH-LRL

BOYD GAMING CORPORATION, a
 Nevada corporation,

Plaintiff,

v.

PENTON MEDIA, INCORPORATED, an
 entity of unknown origin; THE GOLDEN
 GROUP I, INCORPORATED, an entity of
 unknown origin, RICH HARRISON, an
 individual,

Defendants.

COMPLAINT FOR DAMAGES AND
 INJUNCTIVE RELIEF

- (1) Cybersquatting under
15 U.S.C. § 1125(d)
- (2) Trademark Infringement under
15 U.S.C. § 1114
- (3) Unfair Competition under
15 U.S.C. § 125(a)
- (4) Trademark Dilution under
15 U.S.C. § 1125(c)
- (5) Common Law Trademark
Infringement
- (6) Deceptive Trade Practices under
N.R.S. 598.0903, et seq.
- (7) Intentional Interference with
Prospective Economic Advantage

For its complaint against Defendants, and each of them, Plaintiff complains and
 alleges as follows:

NATURE OF ACTION

This is an action for trademark infringement, dilution and unfair competition under
 federal statutes, with pendent claims for common law trademark infringement, state
 deceptive trade practices, and intentional interference with prospective economic

1 advantage. Plaintiff seeks damages, attorneys' fees, costs, and preliminary and permanent
2 injunctive relief.

3 JURISDICTION

4 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.
5 §§1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiff's state law
6 claims pursuant to 28 U.S.C. § 1367(a).

7 2. This Court has personal jurisdiction over Defendants based upon the
8 following: (a) they operate a web site on the Internet that is accessible to residents of the
9 State of Nevada; (b) the web site is an interactive online business; and (c) Defendants
10 committed tortious acts that they knew or should have known would cause injury to Plaintiff
11 in the State of Nevada.

12 3. Venue is proper in the United States District Court for the District of Nevada
13 under 28 U.S.C. § 1391(b) and (c). Venue lies in the unofficial Southern Division of this
14 Court.

15 PARTIES

16 4. Plaintiff Boyd Gaming Corporation is a Nevada corporation which through its
17 subsidiary, Mare-Bear, Incorporated, owns and operates the "Stardust Resort Hotel and
18 Casino" ("Stardust") in Las Vegas, Nevada.

19 5. Defendant Penton Media, Incorporated ("Penton") is a business entity of
20 unknown origin that, upon information and belief, operates in Cleveland, Ohio.

21 6. Defendant The Golden Group I, Incorporated, ("Golden Group") is a business
22 entity of unknown origin that, upon information and belief, operates in Golden, Oregon.

23 7. Defendant Rich Harrison ("Harrison") is an individual who upon information
24 and belief is a Domain Name broker.

25 ALLEGATIONS COMMON TO ALL COUNTS

26 8. Plaintiff Boyd Gaming Corporation, through its wholly owned subsidiary, owns
27 and operates the Stardust Hotel and Casino in Las Vegas, Nevada.

28 ///

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1 9. The "Stardust" is a famous destination resort hotel casino located on the
2 world-renowned "Strip" in Las Vegas, Nevada.

3 10. Since before its opening in 1958, the Stardust has continuously used the
4 marks STARDUST in connection with advertising and promoting its property in the United
5 States and around the world. The STARDUST names and marks are among the most
6 recognized and respected names in the gaming industry. In fact, the STARDUST name
7 has become famous in the casino industry. Boyd Gaming Corporation and the Stardust
8 Resort Hotel and Casino have spent substantial sums of money to advertise and promote
9 the STARDUST marks in print, broadcast media and on the Internet through the Stardust
10 web site, accessible throughout the United States and around the world at
11 <stardustlv.com>. A true and correct copy of the home page for the Stardust's web site is
12 attached hereto as Exhibit 1 and is incorporated by this reference. In addition, the Stardust
13 has made extensive use of the STARDUST marks on, among other things, signage,
14 wearing apparel, souvenirs and promotional materials.

15 11. Plaintiff Boyd Gaming Corporation is the exclusive owner of the marks
16 STARDUST and variants thereto (the "Stardust Marks") which have been granted federal
17 mark registrations, including but not limited to:

18 (a) STARDUST for hotel services (U.S. Reg. No. 1,580,234); and

19 (b) STARDUST for casino services (U.S. Reg. No. 1,580,234).

20 None of these federal trademark registrations have been abandoned, canceled or revoked.

21 12. Based on its license agreement and extensive use, the Stardust owns the
22 exclusive right to use the STARDUST Marks in connection with hotel, casino and related
23 services.

24 13. The uniqueness of the Stardust resort hotel casino and the extensive
25 advertising and promotion of the "Stardust" have resulted in the STARDUST names and
26 marks being distinctive and famous for resort hotel casino services.

27 14. On or about September 17, 2002, Defendant Penton registered the
28 <stardust.com> Internet domain name (the "Infringing Domain Name") with Network

1 Solutions Incorporated, a registrar for domain names. This domain name contains
2 Plaintiff's famous STARDUST trademarks.

3 15. Some time after registration, Defendant linked the Infringing Domain Name to
4 an active online web site at <ispcon.com>. A true and accurate copy of the home page for
5 the <ispcon.com> web site is attached hereto as Exhibit 2 and is incorporated by reference.
6 The domain name <ispcon.com> is owned by Defendant Golden Group.

7 16. Subsequent to the registration of the Infringing Domain name and its linking to
8 Defendant Golden Group's web site, Defendant Harris contacted Plaintiff with an offer to
9 sell the Infringing Domain Name for \$500,000.

10 17. By registering and/or a using domain name containing Plaintiff's trademarks,
11 Defendants were and are attempting to trade on the goodwill of Plaintiff.

12 18. By registering and/or using a domain name containing Plaintiff's trademarks,
13 Defendants were and are attempting to create an association between the Infringing
14 Domain Name and the Plaintiff's famous trademarks.

15 19. By offering to sell, transfer or assign the Infringing Domain Name for money
16 without a bona fide prior use or intent to use, the Defendants were attempting to capitalize
17 on the goodwill of Plaintiff.

18 20. Plaintiff's marks at issue in this case were distinctive at the time Defendants
19 registered the Infringing Domain Name.

20 21. Upon information and belief, the Defendants registered the Infringing Domain
21 Name with the bad faith intent to profit from Plaintiff's marks.

22 22. Upon information and belief, the Defendants have no trademark or other
23 intellectual property rights in the Infringing Domain Name.

24 23. Upon information and belief, the Defendants had no prior use of the Infringing
25 Domain Name in connection with the bona fide offering of any goods or services.

26 24. Upon information and belief, the Defendants intended to divert customers
27 from the Plaintiff's web sites to a site accessible under the domain name in a manner that
28 could harm the goodwill represented by Plaintiff's marks.

25. Plaintiff's marks incorporated in Defendants' domain name are distinctive and famous.

26. Upon information and belief, Defendants did not believe or have reasonable grounds to believe that the use of the Infringing Domain Name was a fair use or otherwise lawful.

FIRST CLAIM FOR RELIEF
(Cybersquatting under the
Lanham Act, 15 U.S.C. § 1125(d))

27. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

28. Defendants have registered, trafficked in, and/or a used domain name that is identical or confusingly similar to and/or dilutive of Plaintiff's trademarks, which were distinctive and/or famous at the time of registration of the domain name.

29. Upon information and belief, Defendants have or had a bad-faith intent to profit from Plaintiff's trademarks.

30. As a direct and proximate result of such conduct, Plaintiff has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

SECOND CLAIM FOR RELIEF
(Trademark Infringement under
the Lanham Act, 15 U.S.C. § 1114)

31. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

32. Defendants have used and/or are using in commerce a domain name which contains Plaintiff's trademarks, and, thus is confusingly similar to Plaintiff's names and trademarks.

33. Defendants' use in commerce of Plaintiff's marks and/or a mark confusingly similar to Plaintiff's trademarks for Defendants' services, and Defendants' use of Internet domain name and associated web sites identified in the Allegations Common to All Counts section above, constitutes a reproduction, copying, counterfeiting, and colorable imitation of

1 Plaintiff's trademarks in a manner that is likely to cause confusion or mistake or is likely to
2 deceive consumers.

3 34. By using Plaintiff's marks and/or marks confusingly similar to Plaintiff's
4 trademarks with the knowledge that Plaintiff owns and has used, and continues to use its
5 trademarks in Las Vegas, across the United States, and around the world, Defendants
6 have intended to cause confusion, cause mistake, or deceive consumers.

7 35. Defendants are using marks identical and/or confusingly similar to Plaintiff's
8 trademarks in connection with the sale, offering for sale or advertising of services in a
9 manner that is likely to cause confusion, or to cause mistake, or to deceive consumers as
10 to affiliation, connection, or association with Plaintiff or as to the origin, sponsorship, or
11 approval of Defendant's services or commercial activities by Plaintiff.

12 36. Defendants' use of Plaintiff's marks and/or marks confusingly similar to
13 Plaintiff's trademarks has created a likelihood of confusion among consumers who may
14 falsely believe that Defendants' businesses or web sites are associated with Plaintiff's
15 resort hotel casinos or that Plaintiff sponsors or approves of Defendants' services or
16 commercial activities.

17 37. As a direct and proximate result of Defendants' infringement, Plaintiff has
18 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
19 reputation, and goodwill.

20 **THIRD CLAIM FOR RELIEF**
21 (Unfair Competition under the
Lanham Act, 15 U.S.C. § 1125(a))

22 38. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
23 forth herein.

24 39. Defendants' use in commerce of marks identical and/or confusingly similar to
25 Plaintiff's trademarks in connection with Defendants' services, web site, and Internet
26 domain name, constitutes a false designation of origin and/or a false or misleading
27 description or representation of fact, which is likely to cause confusion, cause mistake, or
28 deceive as to affiliation, connection, or association with Plaintiff, or as to the origin,

1 sponsorship, or approval of Defendants' services or commercial activities by Plaintiff.

2 40. Defendants' use in commerce of Plaintiff's marks and/or marks confusingly
3 similar to Plaintiff's trademarks with the knowledge that Plaintiff owns and has used, and
4 continues to use, its trademarks constitutes intentional conduct by Defendants to make
5 false designations of origin and false descriptions about Defendants' services and
6 commercial activities.

7 41. As a direct and proximate result of such unfair competition, Plaintiff has
8 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
9 reputation, and goodwill.

10 **FOURTH CLAIM FOR RELIEF**
11 (Trademark Dilution under the
Federal Anti-Dilution Act, 15 U.S.C. § 1125(c))

12 42. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
13 forth herein.

14 43. Through their adoption and consistent and extensive use, Plaintiff's
15 trademarks have acquired fame and distinction.

16 44. Defendants began using marks identical and/or confusingly similar to
17 Plaintiff's trademarks in connection with Defendants' services, web site and Internet domain
18 name after Plaintiff's trademarks became famous.

19 45. Defendants' use of Plaintiff's marks and/or a mark confusingly similar to
20 Plaintiff's trademarks has caused and will cause dilution of the distinctive quality of
21 Plaintiff's trademarks and will otherwise cause irreparable injury to Plaintiff's business,
22 reputation, and goodwill.

23 46. As a direct and proximate result of Defendants' dilution of Plaintiff's marks,
24 Plaintiff has suffered, and will suffer, irreparable injury to its business, reputation, and
25 goodwill.

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28 ///

FIFTH CLAIM FOR RELIEF
(Common Law Trademark Infringement)

47. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

48. By virtue of having used and continuing to use its trademarks, Plaintiff has acquired common law rights in those marks.

49. Defendants' use of marks identical and/or confusingly similar to Plaintiff's trademarks infringes Plaintiff's common law rights in its trademarks, and this use is likely to cause confusion, mistake, or deception among consumers, who will believe that Defendants' services, web site and/or Internet domain name originates from, or is affiliated with, or endorsed by Plaintiff when, in fact, it is not.

50. As a direct and proximate result of Defendants' infringement of Plaintiff's common law trademark rights under Nevada and other common law, Plaintiff has suffered, and will continue to suffer, monetary damages and irreparable injury to its business, reputation, and goodwill.

SIXTH CLAIM FOR RELIEF
(Deceptive Trade Practices
under N.R.S. § 598.0915)

51. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

52. Upon information and belief, in the course of conducting their business, Defendants knowingly made false representations as to affiliation, connection and/or association with Plaintiff by using a mark confusingly similar to Plaintiff's trademarks and otherwise engaged in deceptive trade practices.

53. As the direct and proximate result of Defendants' conduct, Plaintiff has suffered, and will continue to suffer, monetary damages and irreparable injury to its business, reputation, and goodwill.

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SEVENTH CLAIM FOR RELIEF
(Intentional Interference with
Prospective Economic Advantage)

54. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

55. Upon information and belief, at the time Defendants adopted and began using Plaintiff's name and marks and since that time, Defendants knew and have known that Plaintiff is in the business of providing resort hotel and, particularly, casino services.

56. Upon information and belief, Defendants committed acts intended or designed to disrupt Plaintiff's prospective economic advantage arising from advertising and/or providing these services.

57. Defendants' actions have disrupted or are intended to disrupt Plaintiff's business by, among other things, diverting web users away from Plaintiff's web sites.

58. Defendants have no legal right, privilege or justification for their conduct.

59. As a direct and proximate result of Defendants' intentional interference with Plaintiff's prospective economic advantage, Plaintiff has suffered, and will continue to suffer, monetary damages and irreparable injury.

60. Based on the intentional, willful and malicious nature of Defendants' actions, Plaintiff is entitled to recover exemplary damages and reasonable attorneys' fees and costs incurred in connection with this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that the Court grant the following relief:

A. A preliminary and permanent injunction prohibiting Defendants, their respective officers, agents, servants, employees and/or all persons acting in concert or participation with him, from: (1) using Plaintiff's trademarks or confusingly similar variations thereof, alone or in combination with any other letters, words, letter strings, phrases or designs, in commerce or in connection with any business or for any other purpose (including, but not limited to, on web sites and in domain names); and (2) registering, owning, leasing, selling, or trafficking in any domain names containing Plaintiff's trademarks

1 or confusingly similar variations thereof, alone or in combination with any other letters,
2 words, phrases or designs;

3 B. A preliminary and permanent injunction requiring the current domain name
4 registrar to transfer the <stardust.com> domain name to Plaintiff;

5 C. An award of compensatory, consequential, statutory, and punitive damages to
6 Plaintiff in an amount to be determined at trial;

7 D. An award of interest, costs and attorneys' fees incurred by Plaintiff in
8 prosecuting this action; and

9 E. All other relief to which Plaintiff is entitled.

10 DATED: February 9, 2004.

11 QUIRK & TRATOS

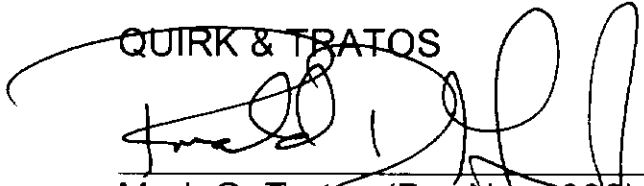
12 
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16 3773 Howard Hughes Parkway
17 Suite 500 North
18 Las Vegas, Nevada 89109
19 Counsel for BOYD GAMING CORPORATION
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EXHIBIT 1

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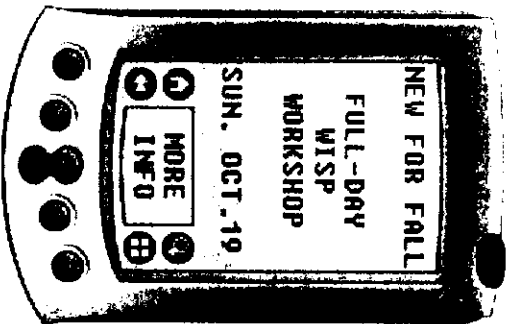
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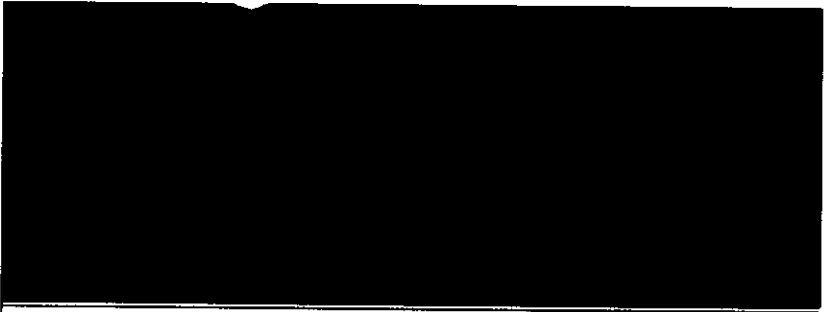
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